

REMARKS

Reconsideration is respectfully requested.

Applicants acknowledge that the request for a corrected filing date is being addressed and further information will follow.

Applicants appreciate the Examiner noting that claim 4 is also generic. However, as noted above, claim 4 has been canceled from the present application.

The Examiner's remarks and cited references have been carefully considered and responsive thereto applicants have amended claims 1, 8, 9, and 16, and have canceled claims 3, 4, 6, 7, 13 and 18-26.

Claims 16 and 19 were objected to by the Examiner for containing certain identified informalities; notably, that the word "adopted" should be changed to "adapted". Responsive thereto, applicants have amended claim 16 to include the word "adapted" and have canceled claim 10. Applicants respectfully request that this objection now be withdrawn.

Claim 10 was rejected by the Examiner under 35 U.S.C. §112, first paragraph, as failing to comply with the written description requirement. Specifically, the Examiner states that there exists no reduction to practice of the manner in which a displacement signal from a sensor operatively coupled with the first pedal controls the jerk of the machine. Applicants respectfully disagree with the Examiner's rejection of claim 10 for the reasons presented. Page 4, line 26 through page 5, line 5 of applicants specification clearly states that the control of jerk is accomplished through the disclosed mapping structures. For at least this reason, the applicants respectfully request that this rejection be withdrawn.

Claims 1-13 and 16-26 were rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over various claims of U.S. Patent No. 6,357,232. As noted above, claims 18-26 have been canceled from this application, and claims 2-17 now depend from claim 1. Applicants respectfully request that the requirement for filing a terminal disclaimer under 37 CFR 1.321(c) be held in abeyance until such time as

the Examiner has had the opportunity to review the amendments made to the remaining claims in question.

Claims 1-13 and 16-26 were rejected by the Examiner under 35 U.S.C. §102(e) as being anticipated by Strashny (US 6,357,232 B1). Responsive thereto, applicants have included herewith an Affidavit under 37 CFR 1.132 of Igor Strashny, an named inventor of the present application and the cited US Patent No. 6,357,232, showing that the inventions claimed in the present application and the above-identified patent are not “by another” as required to sustain a rejection under 35 U.S.C. 102 (e). Favorable consideration of the included Affidavit is respectfully requested.

Claims 1-5, 11, 13, and 16-24 were rejected under 35 U.S.C. §102(b) as being anticipated by Coutant et al. (US 5,553,453). Responsive thereto, applicants have canceled claims 18-24 and have amended claim 1 (with claims 2 –17 now dependent thereon), to now include, as it relates to the first pedal, “wherein displacement of the first pedal produces a pre-determined acceleration rate followed by at least one user selected (i) pre-determined deceleration rate or (ii) constant velocity of the work machine”, and to also include “a second pedal displaceable from a neutral position, wherein displacement of said second pedal produces a pre-determined deceleration rate followed by at least one user selected (i) pre-determined deceleration rate or (ii) constant velocity of the work machine”, which is not taught by Coutant. For at least the reasons present above, applicants respectfully submit that Coutant fails to teach applicants’ invention as now claimed and that this rejection now be withdrawn.

Claims 1, 2, 4, 5, 11, 12, 14-19, and 21-24 were rejected by the Examiner under 35 U.S.C. §102(b) as being anticipated by Lenz. (US 5,064,013). Responsive thereto, applicants have canceled claims 18-24 and have amended claim 1 (with claims 2-17 now dependent thereon) in the manner presented above. Specifically, claim 1 was amended to include, as it relates to the first pedal, “wherein displacement of the first pedal produces a pre-determined acceleration rate followed by at least one user selected (i) pre-determined deceleration rate or (ii) constant velocity of the work machine”, and to also include “a second pedal displaceable from a neutral position, wherein displacement of said second pedal produces a pre-determined deceleration rate followed by at least one user selected (i) pre-

determined deceleration rate or (ii) constant velocity of the work machine”, which is not taught by Lenz. In contrast, Lenz teaches a “system that permits an operator to control the speed and to brake the vehicle using a single control, e.g., a foot pedal (col 9, lines 31-33)” and where “the operator control switch is mechanically connected directly.....to a sliding power regulating coil (col 9, lines 44-46)”. Wherein the instant application teaches the use of a first and second pedal with sensors operatively coupled that send a signal to an electronic controller. Applicants respectfully submit that Lenz does not and cannot teach applicants’ invention as now claimed and the rejected be withdrawn.

Claims 1-9, 11-14, and 16-26 were rejected by the Examiner under 35 U.S.C. §102(b) as being anticipated by Dreher (US 4,866,622). Responsive thereto, applicants have canceled claims 18-24 and have amended claim 1 (with claims 2-17 now dependent thereon) in the manner presented above. Specifically, claim 1 was amended to include, as it relates to the first pedal, “wherein displacement of the first pedal produces a pre-determined acceleration rate followed by at least one user selected (i) pre-determined deceleration rate or (ii) constant velocity of the work machine”, and to also include “a second pedal displaceable from a neutral position, wherein displacement of said second pedal produces a pre-determined deceleration rate followed by at least one user selected (i) pre-determined deceleration rate or (ii) constant velocity of the work machine”, which is not taught by Dreher. The applicants respectively submit that the Dreher reference does not and cannot teach applicants’ invention as now claimed and that this rejection now be withdrawn.

Claims 1-10, 12-14, and 16-26 were rejected by the Examiner under 35 U.S.C. §103(a) as being unpatentable over Meyerle (US 5,890,982). Responsive thereto, applicants have canceled claims 18-26 and have amended claim 1 (with claims 2-17 now dependent thereon) in the manner presented above. Specifically, claim 1 was amended to include, as it relates to the first pedal, “wherein displacement of the first pedal produces a pre-determined acceleration rate followed by at least one user selected (i) pre-determined deceleration rate or (ii) constant velocity of the work machine”, and to also include “a second pedal displaceable from a neutral position, wherein displacement of said second pedal produces a pre-determined deceleration rate followed by at least one user selected (i) pre-determined deceleration rate or (ii) constant velocity of the work machine”, which is not taught nor

suggested by Meyerle. Applicants respectively submit that the Meyerle reference does not and cannot teach or suggest applicants' invention as now claimed and that this rejection now be withdrawn.

It is respectfully urged that the subject application is in condition for allowance and allowance of the application at issue is respectfully requested.

Respectfully submitted,

A handwritten signature in dark ink, appearing to read "James R. Smith", is written over a horizontal line.

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